

APPEAL NO. 040430
FILED APRIL 9, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on January 15, 2004. The hearing officer determined that: (1) _____, is the date of injury (DOI) pursuant to Section 408.007, the date the appellant (claimant) knew or should have known the disease may be related to the employment; (2) the claimant did not sustain a compensable repetitive trauma injury; (3) the claimant's alleged injury does not extend to and include an injury to the bilateral shoulders, arms, wrists, hands, and fingers; (4) the respondent (self-insured) is relieved from liability under Section 409.002 because of the claimant's failure to timely notify her employer pursuant to Section 409.001; and (5) the claimant does not have disability from March 21, 2003, through the date of the CCH. The claimant appealed the hearing officer's DOI, repetitive trauma injury, extent-of-injury, and disability determinations. The self-insured responded, urging affirmance. The hearing officer's timely notice determination was not appealed and has become final pursuant to Section 410.169.

DECISION

Affirmed.

The claimant had the burden to prove the DOI, that she sustained a compensable injury, the extent-of-injury, and that she has had disability. The claimant claimed that she sustained a repetitive trauma injury as a result of performing her work activities as a sewing machine operator for the employer. Section 408.007 provides that the DOI for an occupational disease is the date on which the employee knew or should have known that the disease may be related to the employment. Section 401.011(34) provides that an occupational disease includes a repetitive trauma injury, which is defined in Section 401.011(36). Section 401.011(16) defines "disability" as "the inability because of a compensable injury to obtain and retain employment at wages equivalent to the preinjury wage." Conflicting evidence was presented at the CCH. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. We conclude that the hearing officer's determinations on the disputed issues are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W. 2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Veronica L. Ruberto
Appeals Judge

CONCUR:

Robert W. Potts
Appeals Judge

Edward Vilano
Appeals Judge